IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 17210 of 2007(W)

PETITIONER:

MANOJ S. SINGH, AGED 38 YEARS,
S/O. SHIVYAG SINGH, PROPRIETOR, RAUNAK AGENCY,
SHOP NO.1, BABUBHAI GAYAKWAD COMPOUND,
TRIKAMDAS ROAD, KANDIVALI (WEST), MUMBAI-400 067.

BY ADV. SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY
SMT.LAKSHMI B.SHENOY
SRI.ABU MATHEW
SRI.SOBHAN GEORGE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, TAXES (H) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

3. THE DIRECTOR OF LOTTERIES,
THIRUVANANTHAPURAM.

BY G.P. SRI. V.V. ASOKAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 17210 OF 2007

Dated this the 6th day of June, 2007

JUDGMENT

This W.P.C. is filed claiming that petitioner is the sole distributor appointed by the Government of Arunachal Pradesh for sale of lottery tickets in the State of Kerala. The challenge is against the validity of Kerala Tax on Paper Lotteries Act, 2005. During hearing, Special Government Pleader appearing for the State and Sri. Nandagopal appearing for T. John Rose, Proprietor, Sree Balaji Agencies, 36/2247, Sankoorikkal Building, Kadavanthara New Road, Cochin 17, produced copy of judgment of a Division Bench of this Court in W.A.No. 638 of 2007 and W.A.No. 631 of 2007 dated 11.4.2007 and contended that the said Sri. T. John Rose is the sole promotor appointed by the Arunachal Pradesh Government for selling lotteries in the State of Kerala. The impugned Act provides for liability only on one promotor. Since the promotor appointed by the State of Arunachal Pradesh is remitting tax and has not challenged the statute, the Writ Petition filed by the Petitioner without Arunachal Pradesh Government as party is not

maintainable. It is to be noted that petitioner has not even applied for registration as promotor of Arunachal Pradesh lotteries in the State of Kerala. Moreover the authorisation produced by the petitioner is signed by Section Officer and Authorised Signatory of the State of Arunachal Pradesh Government. In a similar case challenging the validity of the Statute, the Writ Petition was filed by the concerned State along with the Promotor. In the circumstances, it is for the Government of Arunachal Pradesh to settle dispute between the parties and to challenge the legislation if there is any grievance. W.P. is closed leaving freedom to the petitioner to challenge the validity of the statute along with State of Arunachal Pradesh as party.

(C.N.RAMACHANDRAN NAIR)
Judge